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**BEFORE THE PUBLIC UTILITIES COMMISSION**  
  
**OF THE STATE OF CALIFORNIA**

In the Matter of the Application of  
SOUTHERN CALIFORNIA EDISON  
COMPANY for a Certificate of Public  
Convenience and Necessity for the  
RTRP Transmission Project. (U 338-E)

Application 15-04-013  
(Filed April 15, 2015)  
(Amended April 30, 2015)

**AMENDMENT TO CITY OF JURUPA VALLEY'S MOTION TO DISMISS**  
**SOUTHERN CALIFORNIA EDISON'S APPLICATION; [DECLARATION**  
**OF GARY THOMPSON AND EXHIBITS CONCURRENTLY FILED**  
**HEREWITH]**

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Dated: June 29, 2016

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**This Amendment is filed as page 8 was inadvertently omitted from the original filing of the Motion. No changes have been made to the original motion.** Pursuant to the California Public Utilities Commission ("CPUC") Rules of Practice and Procedure, Rule 11.2, Protester City of Jurupa Valley ("Jurupa Valley") respectfully moves for the dismissal of Southern California Edison's ("SCE") Application for a Certificate of Public Convenience and Necessity (U 338-E).

**I. INTRODUCTION**

Despite the CPUC's issuance of four separate deficiency reports to SCE over the course of more than a year, SCE has repeatedly failed to fully respond to the requests and deficiencies highlighted by the CPUC. Throughout this time, SCE's Application continues to be incomplete and fails with the CPUC's

standards. Thus, by engaging in a pattern of providing incomplete and dilatory responses to the CPUC's requests, SCE has failed to timely prosecute its Application. In keeping with the CPUC's prior decisions in such cases and its Rules of Practice and Procedure, SCE's failure to timely prosecute its Application – to the detriment and prejudice of the Protestors – is grounds for dismissal of SCE's Application.

## **II. STATEMENT OF FACTS**

### **A. The Project**

Riverside has been contemplating the Riverside Transmission Reliability Project ("RTRP") for over a decade. As early as 2004, Riverside Public Utilities began commissioning studies regarding the need for construction of a new high-voltage power line and a transmission substation. In early 2006, Riverside Public Utilities began taking steps to move forward with construction of the RTRP. SCE has undertaken the responsibility of constructing major portions of the RTRP outside of Riverside's city limits, including (1) a new 220 kV Wildlife Substation; (2) modification of a tower at the Mira Loma-Vista No. 1 220 kV transmission line; and most notably, and (3) new ten-mile double circuit 220kV transmission lines. Riverside certified a Final EIR for the RTRP in early 2013.

### **B. SCE's Application**

Despite the approval of the Project and the certification of the Final EIR in 2013, SCE elected to wait two years before finally filing an Application and an

Amended Application for a Certificate of Public Convenience and Necessity (A.15-04-013) in April 2015. In an Amended Application dated April 20, 2015, SCE provided a timeline for submission of testimony and briefing, and the Commission's issuance of a Final Decision by November, 2015. Significantly, that deadline has long since passed due to SCE's unwarranted and repeated delays in failing to respond fully to the CPUC's multiple requests for information and deficiency reports.

Numerous protesters have opposed SCE's Application, including: Jurupa Valley; Lennar; Center for Community Action and Environmental Justice; Vernola Marketplace Apartments; IDI (Brookfield Logistics); Stratham Homes; and the Office of Ratepayer Advocates (collectively the "Protesters"). A major dispute lies with the proposed massive 10-mile 220 kV new transmission lines, which would bisect the heart of Jurupa Valley's intended financial and commercial corridor and the many, major, planned-residential developments.

### **C. CPUC's Subsequent EIR Preparation**

On June 10, 2015, assigned ALJ Hallie Yacknin ordered the preparation of a subsequent EIR due to major deficiencies in SCE's Application (the "Order").<sup>1</sup>

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<sup>1</sup> Specifically, page 3 of the Notice of Hearing of Prehearing Conference (June 10, 2015), states: "The Commission's Energy Division has determined that these approved developments [i.e., the Vernola Marketplace and Riverbend projects] are a substantial change in circumstances which require the Commission to prepare a subsequent or supplemental EIR." (emphasis added).

(Thompson Decl. Exh. "A.")<sup>2</sup> However, after delaying for over a year already, SCE continues to deliberately prevent the subsequent EIR from being finalized by perpetrating a calculated scheme to repeatedly and unnecessarily delay SCE's submission of data and documents necessary for the preparation of that subsequent EIR.

ALJ Yacknin instructed the parties to "promptly commence discovery, if any, on the issues as preliminarily identified in this ruling." (Exh. "A," page 5.) Although the Protesters have diligently conducted discovery, SCE has been dilatory, at best, in responding to data requests and in responding to the numerous deficiency reports that Energy Division has issued to SCE.

First, the Order included a Deficiency Report against SCE's Application (attached to the Order at pages 9-10), determining that SCE's application was incomplete. The Deficiency Report requested SCE respond by July 21, 2015 in furtherance of CPUC Staff's initiation of new environmental studies for a supplemental or subsequent EIR addressing the impacts of the RTRP on the Riverbend Project and the Vernola Market Place Project. (Exh. "A.") The "Deficiency Report" also required that the supplemental or subsequent EIR address "alternatives" to the RTRP that would substantially reduce or eliminate the impacts on Riverbend and Vernola Market Place. The additional environmental review will be prepared by a CEQA consultant under contract with

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<sup>2</sup> All exhibits referenced herein are attached to the concurrently filed declaration of Gary Thompson.

the CPUC (Panorama), and the CPUC Staff will supervise and make the final judgments on the additional environmental review under CPUC General Order No. 131-D.

Including the Deficiency Report issued with the Order, SCE's repeated and continuing failure to fully respond to the CPUC's requests has been chronicled over the course of no fewer than four, separate deficiency reports. Specifically, the Energy Division issued a Second Deficiency Report, dated October, 8, 2015. (Exh. "B.") That second deficiency report required SCE's compliance by no later than December 7, 2015. A Third Deficiency Report from the CPUC's Energy Division required SCE's compliance by December 21, 2015. (Exh. "C.") Finally, a Fourth Deficiency Report required compliance by no later than April 15, 2016. (Exh. "D.")

Over a year has now passed since the issuance of the Order. SCE continues to deliberately supply, at a snail's pace and in piecemeal fashion, documents and data to the CPUC's Energy Division with no end in sight. For example, SCE's response dated May 23, 2016, responded to the Energy Division's request for an unredacted version of a Cultural Resources Technical Report, (Exh. "E") but by SCE's own admission, that Report had been prepared in March, 2011 – more than 5 years ago.

SCE's repeated and unwarranted delays in failing to fully respond to the CPUC has deprived the Protesters and the general public of much-needed clarity



regarding the RTRP's future, and its ultimate project configuration, as may be approved by the Commission, with respect to the massive 10-mile 220 kV transmission Line's alignment, potential undergrounding, etc. SCE has dragged its feet in prosecuting the Application by failing to provide documents and data responsive to the Energy Division. Given the long history of the RTRP, the fact SCE has had fully responsive documents and data in its possession for years, and SCE's repeated failures to adequately respond to the numerous deficiency reports issued by the Energy Division, the only logical conclusion is that SCE's delays are purposeful and tactical, designed to wear out opposition to the RTRP. The specter of the RTRP and its fiscal impact have had and continue to have dire and significant fiscal impacts to Jurupa Valley, its residents, and the environs. (Thompson Decl. ¶¶ 6-8, and Exh. "F.") The Commission should not reward SCE's continued, tactical delays and should, instead, dismiss the Application due to SCE's repeated failures to prosecute its Application.

### **III. LEGAL ARGUMENT**

#### **A. The CPUC Should Dismiss SCE's Application Because It Has Failed To Timely Prosecute Its Application**

For over a year since the first Deficiency Report was issued against SCE, and continuing across three subsequent deficiency reports, SCE has failed to timely prosecute its Application by engaging in a pattern of providing incomplete and dilatory responses to the CPUC's requests. In keeping with the CPUC's prior

decisions in such cases and its Rules of Practice and Procedure, SCE's failure to timely prosecute its Application – to the detriment and prejudice of the Protestors – is grounds for dismissal of SCE's Application.

CPUC Rules of Practice and Procedure, Rule 11.2 provides that a motion to dismiss may be made five days prior the first day of a hearing:

“A motion to dismiss a proceeding based on the pleadings . . . shall be made no later than five days prior to the first day of hearing.”

The CPUC has granted motions to dismiss applications on numerous grounds, including policy grounds, to husband limited resources, to avoid conflict with statutory policy, to avoid inefficiency:

“Applications have been dismissed on policy grounds (Application of Southern California Edison for an Order Under Section 701 of the Pub. Util. Code Granting Authorization to Establish Pilot Program for Reselling Bilateral Forward Purchases into the PX and ISO, D. 99-07-018, July 8, 1999), to husband limited resources (In the Matter of the Annual Depreciation Application of Roseville Telephone Company, D. 99-04-046, 1999 Cal. PUC LEXIS 188), to avoid conflict with statutory policy (Application of Southern California Gas Company to Unbundle Core Interstate Pipeline Transportation, D. 98-12-071, 1998 Cal.PUC LEXIS 1017); to avoid inefficiency (In the Matter of the Application of Southern California Edison Company for a Finding of Reasonableness for the Ratepayer Expenditures for the ENVEST Pilot Program, D. 98-10-047, 1998 Cal.PUC LEXIS 811) and for many other reasons.”

(*In re Western Gas Resources-California, Inc.*, D. 99-11-023 (Nov. 4, 1999) 1999 WL 1957792.)

The Commission has dismissed applications due to an applicant's failure to timely prosecute an application. (*See, e.g., Curry v. Pacific Gas & Elec. Co.*, D.

91-06-041 (June 19, 1991) 40 CPUC 2d 613 [matter has been pending for more than a year and a half, and the alleged wrongdoing occurred more than seven years ago]; *In re Western Gas Resources-California, Inc.*, D. 99-11-023 (Nov. 4, 1999) 1999 WL 1957792. For example, the CPUC dismissed an application because, after 18 months of work, the application was still incomplete and did not conform to the CPUC's requirements: "We take this action because, despite over 18 months of work, the application is not complete and does not conform to our requirements. We cannot continue to expend Commission or party resources on A.10-07-001." (*In the Matter of the Application of the Nevada Hydro Co. for A Certificate of Pub. Convenience & Necessity for the Talega-Escondido/Valley-Serrano 500 Kv Interconnect Project.*, D. 12-05-022 (May 24, 2012) 2012 WL 2049407, at \*1[.]) Likewise, in *Curry*, the applicant's repeated failures to appear at hearings "demonstrated that he has not interest in pursuing this matter. We will grant PG&E's motion to dismiss for failure to prosecute." (*Curry*, D. 91-06-041 (June 19, 1991) 40 CPUC 2d 613.)

The CPUC's practice of dismissing applications based on the applicant's failure to prosecute is rooted in the Public Resources Code's requirements that the CPUC act upon an application within 18 months:

"Under Senate Bill (SB) 960, codified in Pub. Util. Code § 1701 et seq., the Commission must act upon an application within 18 months. A complaint must be acted upon within 12 months. These new timelines impel us to use our powers of dismissal when in the past we might simply have asked for repeated amendments, held a

case in abeyance for a year or more, or consolidated it with a generic proceeding that might take two years or more to complete.”

(*In re Western Gas Resources-California, Inc.*, D. 99-11-023 (Nov. 4, 1999) 1999 WL 1957792.)

Here, SCE has unreasonably delayed in prosecuting the Application. SCE has systematically delayed submission of documents and data responsive to four (4) Deficiency Reports issued by the Energy Division. (Exhs. “A” through “D.”) In fact, the CPUC’s Energy Division specifically determined that SCE’s responses to Deficiency Report #1 is incomplete: “The Energy Division finds that the information contained in SCE’s responses to Deficiency Report #1 is incomplete and does not resolve all deficiencies in SCE’s application.” (Exh. “B.”) Likewise, throughout each deficiency report, SCE’s Application has remained incomplete, despite the CPUC’s repeated identification of the Application’s outstanding deficiencies in each of the deficiency reports. (Exhs. “A” through “D.”) SCE has deliberately failed to fully comply with these Deficiency notices, including, for example, the late submission of an unredacted Cultural Resources Report in May, 2016 even when that document was available as early as March, 2011 – more than 5 years ago. (Exh. “E.”)

SCE’s repeated delays and incomplete responses are inexcusable, especially when compared to SCE’s estimated November 2015 deadline for the issuance of a decision regarding the RTRP. Like the prior CPUC decisions cited above, SCE’s

Application, despite over a year of deficiency reports and incomplete responses on the part of SCE, is still incomplete and does not conform to the CPUC's requirements. Accordingly, in light of these precedents and the requirement that a decision be rendered within 18 months, which would now be impossible given that SCE's Application remains incomplete, the CPUC should dismiss SCE's Application due to SCE's failure to prosecute. As determined in the foregoing CPUC decisions, the CPUC and the parties should not continue to expend their precious resources on an incomplete and deficient application that has remained incomplete and deficient for over a year, despite the CPUC's repeated efforts and calls for SCE's compliance. As demonstrated below, all Protesters, including Jurupa Valley, its residents and businesses, have been prejudiced and continue to be prejudiced by the uncertainties caused by SCE's pending application and inexcusable delays. Thus, the Commission should dismiss SCE's Application.

**B. Jurupa Valley, Its Residents, and Other Protesters Continue To Be Prejudiced**

Throughout SCE's repeated delays and failures to comply with the CPUC's standards and requests, a cloud of uncertainty continues to hover over Jurupa Valley, its residents, and many of the Protesters with no end in sight. As demonstrated in the accompanying declaration of Jurupa Valley General Manager Gary Thompson, Jurupa Valley has conducted a Fiscal Impact Study, which has concluded that the RTRP (and even the threat of its construction) would have a

significant detrimental impact on Jurupa Valley's general fund health, causing a roughly 20% decrease in property value. (Thompson Decl., ¶¶ 6-8, Exh. "F.") The Fiscal Impact Study also analyzed the project's devastating impact to Jurupa Valley's planned financial and economic corridor, as well as impacts to major planned residential developments impacted by the RTRP.

#### **IV. CONCLUSION**

For all the foregoing reasons, the Commission should dismiss SCE's Application with prejudice.

DATED: June 29, 2016

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